

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

ROSEVILLE JOINT UNION HIGH
SCHOOL DISTRICT ,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2010090443

DETERMINATION OF SUFFICIENCY
OF DUE PROCESS COMPLAINT

On September 9, 2010 Roseville Joint Union High School District (District) filed a Due Process Hearing Request¹ (complaint) naming Student as the respondent. The sole issue alleged was whether District had offered Student a FAPE in an IEP dated December 11, 2009, such that District could implement the IEP without parental consent. The complaint contained an extensive factual history of Student's educational program, as well as a chronology explaining how an IEP team meeting was begun on December 11, 2009, but not completed until May 28, 2010.

On September 17, 2010, Student filed a Notice of Insufficiency (NOI). Student contends that the complaint is insufficient because it is ambiguous as to whether the District seeks a determination as to an offer made on December 11, 2009 or an offer made on May 28, 2010. As discussed below, the complaint is sufficient.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.² The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of section 1415(b)(7)(A). A complaint is sufficient if it contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education (FAPE) to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem to the

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A). All subsequent statutory references are to Title 20 United States Code unless otherwise indicated.

² § 1415(b) & (c).

extent known and available to the party at the time.³ These requirements prevent vague and confusing complaints, and promote fairness by providing the named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.⁴

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”⁵ The pleading requirements should be liberally construed in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings it authorizes.⁶ Whether the complaint is sufficient is a matter within the sound discretion of the ALJ.⁷

DISCUSSION

Here, Student contends there is ambiguity where none exists. The complaint makes it absolutely clear that the sole issue for hearing is whether the IEP dated December 11, 2009, and developed over a series of meetings concluding on May 28, 2010, offered Student a FAPE. All of the IDEA’s other pleading requirements have been met. Student’s NOI is without merit.

³ § 1415(b)(7)(A)(ii)(III) & (IV)

⁴ See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

⁵ Sen. Rep. No. 108-185, *supra*, at p. 34.

⁶ *Alexandra R. v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board of Educ. v. Benton* (S.D.Ala. 2005) 406 F. Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Bd.* (M.D. Fla., Oct. 28, 2005, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

⁷ Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

ORDER

1. The complaint is sufficient under section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

Dated: September 20, 2010

/s/

RICHARD T. BREEN
Administrative Law Judge
Office of Administrative Hearings